

**Chapter 9**  
**Offenses Against Public Order and Decency**  
**Part 1**  
**Breaches of the Peace and Related Offenses**

**76-9-101 Riot -- Penalties.**

- (1) A person is guilty of riot if:
  - (a) simultaneously with two or more other persons he engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm; or
  - (b) he assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violent conduct, knowing, that two or more other persons in the assembly have the same purpose; or
  - (c) he assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he supposes to be guilty of a violation of law, believing that two or more other persons in the assembly have the same purpose.
- (2) Any person who refuses to comply with a lawful order to withdraw given to him immediately prior to, during, or immediately following a violation of Subsection (1) is guilty of riot. It is no defense to a prosecution under this Subsection (2) that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.
- (3) Riot is a felony of the third degree if, in the course of and as a result of the conduct, any person suffers bodily injury, or substantial property damage, arson occurs or the defendant was armed with a dangerous weapon, as defined in Section 76-1-601; otherwise it is a class B misdemeanor.

Amended by Chapter 289, 1997 General Session

**76-9-102 Disorderly conduct.**

- (1) A person is guilty of disorderly conduct if:
  - (a) the person refuses to comply with the lawful order of a law enforcement officer to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or
  - (b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, the person:
    - (i) engages in fighting or in violent, tumultuous, or threatening behavior;
    - (ii) makes unreasonable noises in a public place;
    - (iii) makes unreasonable noises in a private place which can be heard in a public place; or
    - (iv) obstructs vehicular or pedestrian traffic in a public place.
- (2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, public buildings and facilities, transport facilities, and shops.
- (3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does

not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.

- (4) Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

Amended by Chapter 245, 2016 General Session

**76-9-103 Disrupting a meeting or procession.**

- (1) A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession, or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance, or any other means.
- (2) Disrupting a meeting or procession is a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**76-9-104 Failure to disperse.**

- (1) A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer.
- (2) This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.
- (3) Failure to disperse is a class C misdemeanor.

Enacted by Chapter 196, 1973 General Session

**76-9-105 Making a false alarm -- Penalties.**

- (1) A person is guilty of making a false alarm if he initiates or circulates a report or warning of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.
- (2)
- (a) Making a false alarm relating to a weapon of mass destruction as defined in Section 76-10-401 is a second degree felony.
- (b) Making a false alarm other than under Subsection (2)(a) is a class B misdemeanor.
- (3) In addition to any other penalty authorized by law, a court shall order any person convicted of a felony violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 166, 2002 General Session

**76-9-106 Disrupting the operation of a school.**

- (1) A person is guilty of disrupting the operation of a school if the person, after being asked to leave by a school official, remains on school property for the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a public or private school.

- (2) For purposes of this section, "school property" includes property being used by a public or private school for a school function.
- (3) Disrupting the operation of a school is a class B misdemeanor.

Enacted by Chapter 163, 1992 General Session

**76-9-107 Unauthorized entry of school bus -- Posting of warning on school buses.**

- (1) As used in this section:
  - (a) "Driver" means the driver of the school bus.
  - (b) "School bus" means every publicly or privately owned motor vehicle designed for transporting 10 or more passengers and operated for the transportation of children to or from school or school activities.
- (2) A person is guilty of a class B misdemeanor if the person:
  - (a) enters a school bus with the intent to commit a criminal offense;
  - (b) enters a school bus and disrupts or interferes with the driver; or
  - (c) enters a school bus and refuses to leave the bus after being ordered to leave by the driver and the person:
    - (i) is not a peace officer acting within the scope of his or her authority as a peace officer;
    - (ii) is not authorized by the school district to board the bus as a student or as an individual employed by the school district or volunteering as a participant in a school activity;
    - (iii) causes or attempts to cause a disruption or an annoyance to any passenger on the bus; or
    - (iv) is reckless as to whether the person's presence or behavior will cause fear on the part of any passenger on the bus.
- (3) Each school district shall ensure that clearly legible signs be placed on each school bus, next to each entrance to the bus, warning that unauthorized entry of a school bus is a violation of state law.

Enacted by Chapter 186, 2003 General Session

**76-9-108 Disrupting a funeral or memorial service.**

- (1) As used in this section:
  - (a) "Funeral procession" means a procession of two or more motor vehicles where:
    - (i) the operators of the vehicles identify themselves as being part of the procession by having the lamps or lights of the vehicle on and by keeping in close formation with the other vehicles in the procession;
    - (ii) at least one vehicle contains the body or remains of a deceased person being memorialized; and
    - (iii) the vehicles are going to or from a memorial service.
  - (b) "Memorial service" means a wake, funeral, graveside service, burial, or other ceremony or rite held in connection with the burial or cremation of an individual.
  - (c) "Memorial site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, grave site, mausoleum, or other place at which a memorial service is conducted.
  - (d) "Disruptive activity" means:
    - (i) a loud or disruptive oration or speech that is not part of the memorial service;
    - (ii) the display of a placard, banner, poster, flag, or other item that is not part of the memorial service; or
    - (iii) the distribution of any handbill, pamphlet, leaflet, or other written material or other item that is not part of the memorial service.

- (2) A person is guilty of a class B misdemeanor if the person, with intent to disrupt the memorial service, does any of the following during the period beginning 60 minutes immediately before the scheduled commencement of a memorial service and ending 60 minutes after the conclusion of a memorial service:
- (a) obstructs, hinders, impedes, or blocks another person's entry to or exit from the memorial site;
  - (b) obstructs, hinders, impedes, or blocks a funeral procession;
  - (c) makes unreasonable noise; or
  - (d) engages in a disruptive activity within 200 feet of the memorial service.

Enacted by Chapter 46, 2007 General Session

## **Part 2**

### **Telephone Abuse**

#### **76-9-201 Electronic communication harassment -- Definitions -- Penalties.**

- (1) As used in this section:
- (a) "Adult" means a person 18 years of age or older.
  - (b) "Electronic communication" means any communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at any specific individual.
  - (c) "Electronic communication device" includes telephone, facsimile, electronic mail, or pager.
  - (d) "Minor" means a person who is younger than 18 years of age.
- (2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to annoy, alarm, intimidate, offend, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:
- (a)
    - (i) makes repeated contact by means of electronic communications, whether or not a conversation ensues; or
    - (ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:
      - (A) contacts the electronic communication device of the recipient; or
      - (B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;
  - (b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;
  - (c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or
  - (d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.
- (3)
- (a)
    - (i) Electronic communication harassment committed against an adult is a class B misdemeanor, except under Subsection (3)(a)(ii).

- (ii) A second or subsequent offense under Subsection (3)(a)(i) is a:
  - (A) class A misdemeanor if all prior violations of this section were committed against adults;  
and
  - (B) a third degree felony if any prior violation of this section was committed against a minor.
- (b)
  - (i) Electronic communication harassment committed against a minor is a class A misdemeanor, except under Subsection (3)(b)(ii).
  - (ii) A second or subsequent offense under Subsection (3)(b)(i) is a third degree felony, regardless of whether any prior violation of this section was committed against a minor or an adult.
- (4)
  - (a) Except under Subsection (4)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of any of the offenses under this section.
  - (b) This section does not create any civil cause of action based on electronic communications made for legitimate business purposes.

Amended by Chapter 326, 2009 General Session

**76-9-202 Emergency reporting -- Interference -- False report.**

- (1) As used in this section:
  - (a) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.
  - (b) "Party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.
- (2) A person is guilty of emergency reporting abuse if he:
  - (a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;
  - (b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists; or
  - (c) reports an emergency or causes an emergency to be reported to any public, private, or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when the actor knows the reported emergency does not exist.
- (3)
  - (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.
  - (b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided under Subsection (3)(c).
  - (c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding a weapon of mass destruction, as defined in Section 76-10-401.
- (4) In addition to any other penalty authorized by law, a court shall order any person convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 166, 2002 General Session

### **Part 3 Cruelty to Animals**

#### **76-9-301 Cruelty to animals.**

(1) As used in this section:

(a)

(i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b)

(i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

- (E) swine;
- (F) equines;
- (G) camelidae;
- (H) ratites; or
- (I) bison;
- (ii) domesticated elk, as defined in Section 4-39-102; or
- (iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.
- (g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:
  - (i) appropriate and essential food and water;
  - (ii) adequate protection, including appropriate shelter, against extreme weather conditions; and
  - (iii) other essential care.
- (h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.
- (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:
  - (a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;
  - (b) abandons an animal in the person's custody;
  - (c) injures an animal;
  - (d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or
  - (e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.
- (3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:
  - (a) a class B misdemeanor if committed intentionally or knowingly; and
  - (b) a class C misdemeanor if committed recklessly or with criminal negligence.
- (4) A person is guilty of aggravated cruelty to an animal if the person:
  - (a) tortures an animal;
  - (b) administers, or causes to be administered, poison or a poisonous substance to an animal; or
  - (c) kills an animal or causes an animal to be killed without having a legal privilege to do so.
- (5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:
  - (a) a class A misdemeanor if committed intentionally or knowingly;
  - (b) a class B misdemeanor if committed recklessly; and
  - (c) a class C misdemeanor if committed with criminal negligence.
- (6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.
- (7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:
  - (a) by a licensed veterinarian using accepted veterinary practice;
  - (b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;
  - (c) permitted under Section 18-1-3;
  - (d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

- (e) by a person who humanely destroys any apparently abandoned animal found on the person's property.
- (8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:
  - (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
  - (b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;
  - (c) the consent from the owner of the animal to the destruction of the animal; or
  - (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.
- (9) This section does not affect or prohibit:
  - (a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;
  - (b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or
  - (c) the lawful hunting of, fishing for, or trapping of, wildlife.
- (10) County and municipal governments may not prohibit the use of an electronic locating or training collar.
- (11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:
  - (a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;
  - (b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;
  - (c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and
  - (d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.
- (12) This section does not prohibit the use of animals in lawful training.
- (13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Amended by Chapter 329, 2015 General Session

**76-9-301.1 Dog fighting -- Training dogs for fighting -- Dog fighting exhibitions.**

- (1) It is unlawful for any person to:
  - (a) own, possess, keep, or train a dog with the intent to engage it in an exhibition of fighting with another dog;
  - (b) cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;
  - (c) tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or

- (d) permit or allow any act which violates Subsection (1)(a), (b), or (c) on any premises under his charge; or to control, aid, or abet any such act.
- (2) Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of Subsections (1)(b) and (c).
- (3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed \$25,000.
- (4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.
- (5) Nothing in this section prohibits any of the following:
  - (a) the use of dogs for management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;
  - (b) the use of dogs for hunting; or
  - (c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

Amended by Chapter 324, 2010 General Session

### **76-9-301.3 Game fowl fighting.**

- (1) As used in this section:
  - (a) "Game fowl" means a fowl reared or used for fighting other fowl.
  - (b) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.
- (2) It is unlawful for a person to:
  - (a) intentionally cause a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or
  - (b) promote any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).
- (3) A person who violates Subsection (2) is, upon conviction, guilty of:
  - (a) a class B misdemeanor for the first violation;
  - (b) a class A misdemeanor for the second violation; or
  - (c) a third degree felony for a third or subsequent violation.
- (4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

Enacted by Chapter 329, 2015 General Session

### **76-9-301.5 Spectator at organized animal fighting exhibitions.**

It is unlawful for a person to knowingly be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by Subsections 76-9-301(2)(d) and (e), or to be present at such exhibition, regardless of whether any entrance fee has been charged. A person who violates this section is guilty of a class B misdemeanor.

Amended by Chapter 292, 2008 General Session

**76-9-301.6 Dog fighting exhibition -- Authority to arrest and take possession of dogs and property.**

- (1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.
- (2)
  - (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.
  - (b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.
- (3)
  - (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.
  - (b) The affidavit shall include:
    - (i) the name of the person charged in the complaint;
    - (ii) a description of all property taken;
    - (iii) the time and place of the taking of the property;
    - (iv) the name of the person from whom the property was taken;
    - (v) the name of the person who claims to own the property, if known; and
    - (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.
- (4)
  - (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.
  - (b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.
  - (c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.
  - (d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Amended by Chapter 292, 2008 General Session

**76-9-301.7 Cruelty to animals -- Enhanced penalties.**

- (1) As used in this section, "conviction" means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

- (2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).
- (3) The enhanced degree of offense for offenses committed under this section are:
  - (a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and
  - (b) if the offense is a class B misdemeanor, it is a class A misdemeanor.
- (4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

Amended by Chapter 292, 2008 General Session

**76-9-301.8 Bestiality -- Definitions -- Penalty.**

- (1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.
- (2) For purposes of this section only:
  - (a) "Animal" means any live, nonhuman vertebrate creature, including fowl.
  - (b) "Sexual activity" means physical sexual contact:
    - (i) between the actor and the animal involving the genitals of the actor and the genitals of the animal;
    - (ii) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or
    - (iii) through the actor's use of an object in contact with the genitals or anus of the animal.
- (3) A crime of bestiality is a class B misdemeanor.

Amended by Chapter 302, 1999 General Session

**76-9-304 Allowing vicious animal to go at large.**

Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal, while at large, or while not kept with ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution which the circumstances permitted, is guilty of a class B misdemeanor unless the animal causes the death of a human being, whereupon the owner is guilty of a felony of the third degree.

Amended by Chapter 87, 1977 General Session

**76-9-305 Officer's authority to take possession of animals -- Lien for care.**

- (1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.
- (2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public auction or destroyed.
- (3) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

Amended by Chapter 87, 1977 General Session

**76-9-306 Police service animals -- Causing injury or interfering with handler -- Penalties.**

- (1) As used in this section:
  - (a) "Handler" means a law enforcement officer who is specially trained, and uses a police service animal during the course of the performance of his law enforcement duties.
  - (b) "Police service animal" means any dog or horse used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.
- (2) It is a third degree felony for a person to intentionally:
  - (a) cause bodily injury or death to a police service animal;
  - (b) engage in conduct likely to cause bodily injury or death to a police service animal;
  - (c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service animal; or
  - (d) offer or agree with one or more persons to engage in or cause the performance of an act which constitutes a violation of this section.
- (3) It is a class A misdemeanor for a person to intentionally or knowingly:
  - (a) taunt, torment, strike, or otherwise assault a police service animal;
  - (b) throw any object or substance at, or in the path of, a police service animal;
  - (c) interfere with or obstruct a police service animal, or attempt to, or interfere with the handler of the animal in a manner that inhibits, restricts, or deprives the handler of his control of the animal;
  - (d) release a police service animal from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or
  - (e) place any food, object, or substance into a police service animal's area of control without the permission of the handler.
- (4) A police service animal is exempt from quarantine or other animal control ordinances if it bites any person while under proper police supervision or routine veterinary care. The law enforcement agency and the animal's handler shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.
- (5) In addition to any other penalty, a person convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Amended by Chapter 192, 2000 General Session

**76-9-307 Injury to service animals -- Penalties.**

- (1) As used in this section:
  - (a) "Disability" has the same meaning as defined in Section 62A-5b-102.
  - (b) "Search and rescue dog" means a dog:
    - (i) with documented training to locate persons who are:
      - (A) lost, missing, or injured; or
      - (B) trapped under debris as the result of a natural or man-made event; and
    - (ii) affiliated with an established search and rescue dog organization.
  - (c) "Service animal" means:
    - (i) a service animal as defined in Section 62A-5b-102; or
    - (ii) a search and rescue dog.

- (2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly cause substantial bodily injury or death to a service animal.
- (3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from causing:
  - (a) any substantial bodily injury or the death of a service animal; or
  - (b) the service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal.
- (4) It is a class B misdemeanor for a person to chase or harass a service animal.
- (5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.
- (6)
  - (a) A service animal is exempt from quarantine or other animal control ordinances if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).
  - (b) The owner of the service animal or the person with a disability whom the service animal serves shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.
- (7) In addition to any other penalty, a person convicted of any violation of this section is liable for restitution to the owner of the service animal or the person with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.
- (8) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 110, 2009 General Session

## **Part 4**

### **Offenses Against Privacy**

#### **76-9-401 Definitions.**

For purposes of this part:

- (1) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.
- (2) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical, or other device.
- (3) "Public" includes any professional or social group of which the victim of a defamation is a member.

Enacted by Chapter 196, 1973 General Session

#### **76-9-402 Privacy violation.**

- (1) A person is guilty of privacy violation if, except as authorized by law, he:
  - (a) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
  - (b) Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in the place or uses any such unauthorized installation; or
  - (c) Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.
- (2) Privacy violation is a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**76-9-403 Communication Abuse.**

- (1) A person commits communication abuse if, except as authorized by law, he:
  - (a) Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; this paragraph does not extend to:
    - (i) Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or
    - (ii) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or
  - (b) Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he learned of the message in the course of employment with an agency engaged in transmitting it.
- (2) Communication abuse is a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**76-9-404 Criminal defamation.**

- (1) A person is guilty of criminal defamation if he knowingly communicates to any person orally or in writing any information which he knows to be false and knows will tend to expose any other living person to public hatred, contempt, or ridicule.
- (2) Criminal defamation is a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**76-9-406 Injunctive relief against privacy offenses -- Damages.**

Any person, or the heirs of any deceased person, who has been injured by a violation of this part may bring an action against the person who committed the violation. If in the action the court finds the defendant is violating or has violated any of the provisions of this part, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiffs be alleged or proved, but if damages are alleged and proved, the plaintiff in the action shall be entitled to recover from the defendant the actual damages, if any, sustained in addition to injunctive relief. A finding that the defendant is in violation of this part shall entitle the plaintiff to reasonable attorney's fees. Exemplary damages may be awarded where the violation is found to be malicious.

Enacted by Chapter 196, 1973 General Session

**76-9-407 Crime of abuse of personal identity -- Penalty -- Defense -- Permitting civil action.**

- (1) The definitions in Section 45-3-2 apply to this section.
- (2) Any person is guilty of a class B misdemeanor who knowingly or intentionally causes the publication of an advertisement in which the personal identity of an individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement without the consent for such use by the individual.
- (3) It is an affirmative defense that the person causing the publication of the advertisement reasonably believed that the person whose personal identity was to be used had consented to its use.
- (4) Upon conviction of an offense under this section, unless waived by the victim, the court shall order that, within 30 days of the conviction, the person convicted shall issue a public apology or retraction to whomever received the advertisement. The apology or retraction shall be of similar size and placement as the original advertisement.
- (5) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of Personal Identity Act.

Enacted by Chapter 146, 1999 General Session

**Part 5**  
**Libel**

**76-9-504 Fair reporting privilege of newspaper or broadcasting station personnel as to public official proceedings -- Privilege as to defamatory matter not subject to censorship.**

No reporter, editor, or proprietor of any newspaper, and no owner, licensee, or operator of a visual or sound radio broadcasting station, or network of stations, nor the agents or employees of a newspaper or broadcasting station, is liable to any prosecution for a fair and true report or broadcast of any judicial, legislative, or other public official proceedings, or of any statement, speech, argument, or debate in course of the same, except upon proof of malice in making the report, which shall not be implied from the mere fact of publication. In no event shall any owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations, or the agents or employees thereof, be liable for prosecution for any defamatory matter or statement published or uttered in such radio or television broadcast where the publication cannot be censored by reason of the provisions of federal statute or the regulations of the federal communications commission.

Enacted by Chapter 196, 1973 General Session

**76-9-505 Libelous matter not privileged.**

Libelous remarks or comments connected with matter privileged by the next preceding section receive no privilege by reason of their being so connected.

Enacted by Chapter 196, 1973 General Session

**76-9-506 Privilege as to communications between interested persons.**

A communication made to a person interested in the communication by one who is also interested, or who stands in a relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is a privileged communication.

Enacted by Chapter 196, 1973 General Session

**76-9-509 Conveying false or libelous material to newspaper or broadcasting stations.**

Any person who willfully states, conveys, delivers, or transmits, by any means whatsoever, to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication therein, any false or libelous statement concerning any person, and thereby secures actual publication of the same, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**Part 6**  
**Offenses Against the Flag**

**76-9-601 Abuse of a flag.**

- (1) A person is guilty of abuse of a flag if he:
  - (a) Intentionally places any unauthorized inscription or other thing upon any flag of the United States or of any state of the United States; or
  - (b) Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized; or
  - (c) For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United States or of a state of the United States to the product or on any display whereon the product or service is advertised; or
  - (d) Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it.
- (2) Abuse of a flag is a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

**Part 7**  
**Miscellaneous Provisions**

**76-9-701 Intoxication -- Release of arrested person or placement in detoxification center.**

- (1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.
- (2)
  - (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.

- (b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.
- (3)
  - (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:
    - (i) order the minor to complete a screening as defined in Section 41-6a-501;
    - (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
    - (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.
  - (b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:
    - (i) order the minor to complete a screening as defined in Section 41-6a-501;
    - (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
    - (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.
- (4)
  - (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.
  - (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:
    - (i) the violation is the minor's first violation of this section; and
    - (ii)
      - (A) the minor completes an educational series as defined in Section 41-6a-501; or
      - (B) the minor demonstrates substantial progress in substance abuse treatment.
  - (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:
    - (i) the violation is the minor's second or subsequent violation of this section;
    - (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and
    - (iii)
      - (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or
      - (B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).
- (5) When a person who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.
- (6) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.
- (7) An offense under this section is a class C misdemeanor.

Amended by Chapter 165, 2015 General Session

**76-9-702 Lewdness.**

- (1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:
  - (a) an act of sexual intercourse or sodomy;
  - (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;
  - (c) masturbates; or
  - (d) any other act of lewdness.
- (2)
  - (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).
  - (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:
    - (i) the person is a sex offender as defined in Section 77-27-21.7;
    - (ii) the person has been previously convicted two or more times of violating Subsection (1); or
    - (iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.
  - (c)
    - (i) For purposes of this Subsection (2) and Subsection 77-41-102(17), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
    - (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Amended by Chapter 210, 2015 General Session

**76-9-702.1 Sexual battery.**

- (1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.
- (2) Offenses referred to in Subsection (1) are:
  - (a) rape, Section 76-5-402;
  - (b) rape of a child, Section 76-5-402.1;
  - (c) object rape, Section 76-5-402.2;
  - (d) object rape of a child, Section 76-5-402.3;
  - (e) forcible sodomy, Subsection 76-5-403(2);
  - (f) sodomy on a child, Section 76-5-403.1;
  - (g) forcible sexual abuse, Section 76-5-404;

- (h) sexual abuse of a child, Subsection 76-5-404.1(2);
  - (i) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);
  - (j) aggravated sexual assault, Section 76-5-405; and
  - (k) an attempt to commit any offense under this Subsection (2).
- (3) Sexual battery is a class A misdemeanor.
- (4) For purposes of Subsection 77-41-102(17) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Amended by Chapter 210, 2015 General Session

**76-9-702.3 Public urination.**

- (1) A person is guilty of public urination if the person urinates or defecates:
- (a) in a public place, other than a public rest room; and
  - (b) under circumstances which the person should know will likely cause affront or alarm to another.
- (2) Public urination is an infraction.

Amended by Chapter 303, 2016 General Session

**76-9-702.5 Lewdness involving a child.**

- (1) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly does any of the following to, or in the presence of, a child who is under 14 years of age:
- (a) performs an act of sexual intercourse or sodomy;
  - (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:
    - (i) in a public place; or
    - (ii) in a private place:
      - (A) under circumstances the person should know will likely cause affront or alarm; or
      - (B) with the intent to arouse or gratify the sexual desire of the actor or the child;
  - (c) masturbates;
  - (d) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or
  - (e) performs any other act of lewdness.
- (2)
- (a) Lewdness involving a child is a class A misdemeanor, except under Subsection (2)(b).
  - (b) Lewdness involving a child is a third degree felony if at the time of the violation:
    - (i) the person is a sex offender as defined in Section 77-27-21.7; or
    - (ii) the person has previously been convicted of a violation of this section.

Amended by Chapter 278, 2013 General Session

### **76-9-702.7 Voyeurism offenses -- Penalties.**

- (1) A person is guilty of voyeurism who intentionally uses a camcorder, motion picture camera, photographic camera of any type, or other equipment that is concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or view by electronic means an individual:
  - (a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;
  - (b) without the knowledge or consent of the individual; and
  - (c) under circumstances in which the individual has a reasonable expectation of privacy.
- (2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of Subsection (1) committed against a child under 14 years of age is a third degree felony.
- (3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.
- (4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:
  - (a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;
  - (b) without the knowledge or consent of the individual; and
  - (c) under circumstances in which the individual has a reasonable expectation of privacy.
- (5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.

Amended by Chapter 52, 2004 General Session

### **76-9-704 Abuse or desecration of a dead human body -- Penalties.**

- (1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section 9-8-302.
- (2) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully:
  - (a) fails to report the finding of a dead human body to a local law enforcement agency;
  - (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of it;
  - (c) disinters a buried or otherwise interred dead human body, without authority of a court order;
  - (d) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or
  - (e)
    - (i) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body; and
    - (ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.
- (3) A person does not violate this section if when that person directs or carries out procedures regarding a dead human body, that person complies with:
  - (a) Title 9, Chapter 8, Part 3, Antiquities;

- (b) Title 26, Chapter 4, Utah Medical Examiner Act;
  - (c) Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;
  - (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;
  - (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
  - (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.
- (4)
- (a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.
  - (b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.

Amended by Chapter 60, 2007 General Session

Amended by Chapter 231, 2007 General Session

**76-9-705 Participation in an ultimate fighting match.**

- (1) For purposes of this section, "ultimate fighting match" means a live match in which:
- (a) an admission fee is charged;
  - (b) match rules permit professional contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques; and
  - (c) match rules do not:
    - (i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;
    - (ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or
    - (iii) prohibit contestants from:
      - (A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;
      - (B) striking a person who demonstrates an inability to protect himself from the advances of an opponent;
      - (C) biting; or
      - (D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, and temple area of the head.
- (2) Any person who publicizes, promotes, conducts, or engages in an ultimate fighting match is guilty of a class A misdemeanor.

Enacted by Chapter 83, 1997 General Session

**76-9-706 False representation of military award -- False wearing or use of medal, name, title, insignia, ritual, or ceremony of a military related organization.**

- (1) As used in this section:
- (a) "Military related organization" means a public or private society, order, or organization that:
    - (i) only accepts as a member, a person, or the relative of a person, who is:
      - (A) a member of the military; or
      - (B) an honorably discharged member of the military; and
    - (ii) is organized for the purpose of:
      - (A) recognizing or honoring a person for military service;

- (B) assisting a person described in Subsection (1)(a)(i) to lawfully associate with, or provide service with, other people described in Subsection (1)(a)(i); or
  - (C) provide support for, or assistance to, a person described in Subsection (1)(a)(i).
- (b) "Service medal" means:
- (i) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);
  - (ii) a distinguished service cross, as defined in 10 U.S.C. 3742;
  - (iii) a Navy cross, as defined in 10 U.S.C. 6242;
  - (iv) an Air Force cross, as defined in 10 U.S.C. 8742;
  - (v) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;
  - (vi) a bronze star, as defined in 10 U.S.C. 1133;
  - (vii) a purple heart, as defined in 10 U.S.C. 1129;
  - (viii) any decoration or medal authorized by the Congress of the United States for the armed forces of the United States;
  - (ix) any service medal or badge awarded to members of the armed forces of the United States;
  - (x) any of the following Utah National Guard medals or ribbons:
    - (A) medal of valor;
    - (B) Utah cross;
    - (C) joint medal of merit;
    - (D) Utah medal of merit;
    - (E) joint commendation medal;
    - (F) commendation medal;
    - (G) achievement ribbon;
    - (H) joint staff service ribbon;
    - (I) state partnership service ribbon;
    - (J) service ribbon;
    - (K) military funeral honors service ribbon;
    - (L) emergency service ribbon; or
    - (M) recruiting ribbon;
  - (xi) any ribbon, button, or rosette for a decoration, medal, or badge described in Subsections (1)(b)(i) through (x); or
  - (xii) an imitation of a decoration, medal, badge, ribbon, button, or rosette described in Subsections (1)(b)(i) through (xi).
- (2) Any person who intentionally makes a false representation, verbally or in writing, that the person has been awarded a service medal is guilty of an infraction.
- (3) Any person who wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barter, or exchanges for anything of value a service medal, or any colorable imitation thereof, except when authorized by federal law, or under regulations made pursuant to federal law, with the intent to defraud, or with the intent to falsely represent that the person or another person has been awarded a service medal, is guilty of an infraction.
- (4) A person is guilty of an infraction if the person wears or uses a medal of a military related organization:
- (a) that the person is not entitled to wear or use; and
  - (b) with the intent to defraud or with the intent to falsely represent that the person or another person has been awarded the medal.
- (5) A person is guilty of an infraction if the person uses the name, an officer title, an insignia, a ritual, or a ceremony of a military related organization:
- (a) that the person is not entitled to use; and

- (b) with the intent to defraud, or with the intent to falsely represent that the person or another person was or is a member, representative, or officer of the military related organization.

Amended by Chapter 303, 2016 General Session

## **Part 8**

### **Criminal Street Gang Penalties**

#### **76-9-801 Title.**

This part is known as "Criminal Street Gang Penalties."

Enacted by Chapter 15, 2008 General Session

#### **76-9-802 Definitions.**

As used in this part:

- (1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:
  - (a) that is currently in operation;
  - (b) that has as one of its primary activities the commission of one or more predicate gang crimes;
  - (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
  - (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.
- (3) "Minor" means a person younger than 18 years of age.
- (4) "Pattern of criminal gang activity" means:
  - (a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;
  - (b) the predicate gang crimes are:
    - (i) committed by two or more persons; or
    - (ii) committed by an individual at the direction of, or in association with a criminal street gang; and
  - (c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.
- (5)
  - (a) "Predicate gang crime" means any of the following offenses:
    - (i) Title 41, Chapter 1a, Motor Vehicle Act:
      - (A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;
      - (B) Section 41-1a-1315, regarding false evidence of title and registration;
      - (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
      - (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or
      - (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
    - (ii) any criminal violation of the following provisions:
      - (A) Title 58, Chapter 37, Utah Controlled Substances Act;

- (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
  - (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
  - (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
  - (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
  - (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
  - (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;
  - (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
  - (vii) Title 76, Chapter 6, Part 1, Property Destruction;
  - (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
  - (ix) Title 76, Chapter 6, Part 3, Robbery;
  - (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
  - (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;
  - (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
  - (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;
  - (xiv) Section 76-8-508, which includes tampering with a witness;
  - (xv) Section 76-8-508.3, which includes retaliation against a witness or victim;
  - (xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;
  - (xvii) Title 76, Chapter 10, Part 3, Explosives;
  - (xviii) Title 76, Chapter 10, Part 5, Weapons;
  - (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
  - (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
  - (xxi) Section 76-10-1801, which addresses communications fraud;
  - (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
  - or
  - (xxiii) Section 76-10-2002, which addresses burglary of a research facility.
- (b) "Predicate gang crime" also includes:
- (i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and
  - (ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

Amended by Chapter 157, 2009 General Session

Amended by Chapter 356, 2009 General Session

### **76-9-803 Penalties regarding criminal street gang activities.**

- (1) It is a class B misdemeanor to:
- (a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or not the minor actually joins the criminal street gang;
  - (b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to join a criminal street gang; or

- (c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.
- (2) It is a class A misdemeanor for any person who is a member of or actively involved with a criminal street gang to:
  - (a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or
  - (b) commit a violation of Subsection (1)(a):
    - (i) more than once;
    - (ii) regarding the same minor; and
    - (iii) within a period of 180 days.
- (3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.

Enacted by Chapter 15, 2008 General Session

**76-9-804 Convicted criminal gang offender -- Prohibition.**

- (1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76-3-203.1 may not, except where a greater penalty is applicable under this title, possess a dangerous weapon as defined in either Section 76-1-601 or 76-10-501, ammunition, or a facsimile of a firearm within five years after the conviction.
- (2) A violation of Subsection (1) is a class A misdemeanor.

Enacted by Chapter 313, 2009 General Session

## **Part 9**

### **Prohibition of Gang Activity**

**76-9-901 Title.**

This part is known as "Prohibition of Gang Activity."

Enacted by Chapter 86, 2009 General Session

**76-9-902 Definitions.**

As used in this part:

- (1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:
  - (a) that is currently in operation;
  - (b) that has as one of its substantial activities the commission of one or more predicate gang crimes;
  - (c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and
  - (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- (2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:
  - (a) establish control over one or more identifiable areas;

- (b) intimidate others from entering those areas; or
  - (c) conceal illegal activities.
- (3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:
- (a)
    - (i) by two or more persons; or
    - (ii) by an individual at the direction of or in association with a criminal street gang; and
  - (b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.
- (4)
- (a) "Predicate gang crime" means any of the following offenses:
    - (i) any criminal violation of:
      - (A) Title 58, Chapter 37, Utah Controlled Substances Act;
      - (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
      - (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
      - (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
    - (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
    - (iii) Title 76, Chapter 5, Part 2, Criminal Homicide;
    - (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;
    - (v) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
    - (vi) Title 76, Chapter 6, Part 1, Property Destruction;
    - (vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
    - (viii) Title 76, Chapter 6, Part 3, Robbery;
    - (ix) any felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
    - (x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;
    - (xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;
    - (xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;
    - (xiii) Section 76-8-508, which includes tampering with a witness;
    - (xiv) Section 76-8-508.3, which includes retaliation against a witness or victim;
    - (xv) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;
    - (xvi) Title 76, Chapter 10, Part 3, Explosives;
    - (xvii) Title 76, Chapter 10, Part 5, Weapons;
    - (xviii) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
    - (xix) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
    - (xx) Section 76-10-1801, which addresses communications fraud;
    - (xxi) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
    - (xxii) Section 76-10-2002, which addresses burglary of a research facility; and
    - (xxiii) Title 41, Chapter 1a, Motor Vehicle Act:
      - (A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;
      - (B) Section 41-1a-1315, regarding false evidence of title and registration;
      - (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

- (D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and
- (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.
- (b) "Predicate gang crime" also includes:
  - (i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and
  - (ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.
- (5)
  - (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:
    - (i) a sidewalk, street, or highway;
    - (ii) a public park, public recreation facility, or any other area open to the public;
    - (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and
    - (iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.
  - (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

Enacted by Chapter 86, 2009 General Session

**76-9-903 Gang loitering -- Failure to disperse -- Penalties.**

- (1) When a law enforcement officer observes a person whom the officer reasonably believes to be a member of a criminal street gang engaging in gang loitering in the presence of one or more other persons in any public place where gang loitering is prohibited under Section 76-9-905, the police officer shall:
  - (a) inform all the persons that they are within an area in which loitering by a group containing one or more criminal street gang members is prohibited;
  - (b) order all the persons in the group to disperse and remove themselves from within sight and hearing of the location where the officer issues the order to disperse; and
  - (c) inform the persons that any person in the group will be subject to being charged with a criminal offense and will also be subject to arrest if the person fails to promptly obey the order to disperse.
- (2) The officer under Subsection (1) shall also advise the persons the officer is directing to disperse that each of the persons directed to disperse is subject to being charged with a criminal offense and will also be subject to arrest if the person is again, within eight hours after the current order to disperse is made:
  - (a) present in a public place with a group that includes one or more persons a peace officer reasonably believes to be a member of a criminal street gang; and
  - (b) within sight or hearing of the location where the law enforcement officer is currently issuing the order to disperse.

Enacted by Chapter 86, 2009 General Session

**76-9-904 Failure to disperse -- Penalties.**

- (1)

- (a) Failure to comply with an order issued under Subsection 76-9-903(1)(b) to disperse is a class B misdemeanor of failure to disperse.
  - (b) Any second and subsequent violation of Subsection (1)(a) is a class B misdemeanor of failure to disperse and is subject to a fine of not less than \$100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.
- (2)
- (a) A person is guilty of a class B misdemeanor of subsequent failure to disperse who:
    - (i) is present in a public place with or as part of a group of two or more persons, and that group includes one or more persons a peace officer reasonably believes to be a member of a criminal street gang; and
    - (ii) is within sight or hearing of a location where a law enforcement officer issued an order to the person to disperse under Section 76-9-903 within the prior eight hours.
  - (b) A violation of Subsection (2)(a) is subject to a fine of not less than \$100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.

Enacted by Chapter 86, 2009 General Session

**76-9-905 Designation of areas where orders to disperse are authorized and gang loitering is prohibited.**

- (1) Municipal and county legislative bodies shall, within their respective jurisdictions, designate the areas within their jurisdictions that they have determined are subject to the enforcement of Section 76-9-903 because criminal street gangs have been able to or are attempting to:
    - (a) establish control over these identifiable areas;
    - (b) intimidate others from entering those areas; or
    - (c) conceal illegal activities conducted in those areas.
- (2)
- (a) Prior to designating areas subject to enforcement under Section 76-9-903, the legislative body shall consult, as appropriate, with persons who are knowledgeable about the effects of gang activity in areas where Section 76-9-903 may be enforced.
  - (b) Persons consulted under Subsection (2)(a) may include:
    - (i) members of local law enforcement agencies who have training or experience related to criminal street gangs;
    - (ii) other agency personnel with particular knowledge of gang activities in the proposed designated area;
    - (iii) elected and appointed officials of the area where the proposed designated area is located; and
    - (iv) representatives of community-based organizations.
- (3) The municipal or county legislative body shall develop and implement procedures for periodic review and update of area designations it makes under Subsection (1).

Enacted by Chapter 86, 2009 General Session

**76-9-906 Protection of constitutional rights.**

- (1) This section does not affect or limit any individual's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

- (2) The sheriff or chief of police shall issue a written directive to all agency employees that provides information on preventing the enforcement of Section 76-9-903 against persons who are engaged in constitutionally protected collective advocacy activities.

Enacted by Chapter 86, 2009 General Session

**76-9-907 Training for participating law enforcement officers.**

The sheriff or chief of police implementing this part shall ensure that all officers charged with enforcing this part successfully complete appropriate training on identification of gang members and criminal street gangs.

Enacted by Chapter 86, 2009 General Session

**Part 10**  
**The Illegal Immigration Enforcement Act**

**76-9-1001 Title.**

This part is known as "The Illegal Immigration Enforcement Act."

Enacted by Chapter 21, 2011 General Session

**76-9-1002 Definitions.**

As used in this part:

- (1) "Alien" means a person who is not a citizen or national of the United States.
- (2) "ICE" means the federal Immigration and Customs Enforcement agency of the United States Department of Homeland Security.
- (3) "Law enforcement officer" has the same meaning as in Section 53-13-103.
- (4) "SAVE program" means the federal Systematic Alien Verification for Entitlements program operated by the federal Department of Homeland Security.
- (5) "State or local governmental agency" includes any private contractor or vendor that contracts with the agency to provide the agency's functions or services.
- (6) "Verify immigration status" or "verification of immigration status" means the determination of a person's immigration status by:
  - (a) a law enforcement officer who is authorized by a federal agency to determine an alien's immigration status; or
  - (b) the United States Department of Homeland Security, ICE, or other federal agency authorized to provide immigration status as provided by 8 U.S.C. Sec. 1373(c).

Enacted by Chapter 21, 2011 General Session

**76-9-1003 Detention or arrest -- Determination of immigration status.**

- (1)
  - (a) Except as provided in Subsection (1)(b), (c), or (d), any law enforcement officer who, acting in the enforcement of any state law or local ordinance, conducts any lawful stop, detention, or arrest of a person as specified in Subsection (1)(a)(i) or (ii), and the person is unable to

provide to the law enforcement officer a document listed in Subsection 76-9-1004(1) and the officer is otherwise unable to verify the identity of the person, the officer:

- (i) shall request verification of the citizenship or the immigration status of the person under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the person is arrested for an alleged offense that is a class A misdemeanor or a felony; and
- (ii) may attempt to verify the immigration status of the person, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the person is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the person shall attempt to verify the immigration status of the person.
- (b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.
- (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for any elementary or secondary school.
- (d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.
- (2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the officer makes observations that give the officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76-5-308, 76-5-310, or 76-10-2901, which concern smuggling and transporting illegal aliens, the officer shall, to the extent possible within a reasonable period of time:
  - (a) detain the occupants of the vehicle to investigate the suspected violations; and
  - (b) inquire regarding the immigration status of the occupants of the vehicle.
- (3) When a person under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked person is submitted as promptly as is reasonably possible.
- (4) The law enforcement agency that has custody of a person verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.
- (5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Amended by Chapter 196, 2013 General Session

**76-9-1004 Grounds for presumption of lawful presence in United States -- Statement to officer.**

- (1) A person is presumed to be lawfully present in the United States for the purposes of this part if the person provides one of the following documents to the law enforcement officer, unless the law enforcement officer has a reasonable suspicion that the document is false or identifies a person other than the person providing the document:
  - (a) a valid Utah driver license issued on or after January 1, 2010;
  - (b) a valid Utah identification card issued under Section 53-3-804 and issued on or after January 1, 2010;

- (c) a valid tribal enrollment card or other valid form of tribal membership identification that includes photo identification;
  - (d) a valid identification document that:
    - (i) includes a photo or biometric identifier of the holder of the document; and
    - (ii) is issued by a federal, state, or local governmental agency that requires proof or verification of legal presence in the United States as a condition of issuance of the document; or
  - (e) a valid resident immigrant permit issued under Section 63G-14-204.
- (2) A person is presumed to be a citizen or national of the United States for purposes of this part if the person makes a statement or affirmation to the law enforcement officer that the person is a United States citizen or national, unless the officer has a reasonable suspicion that the statement or affirmation is false.

Amended by Chapter 20, 2011 General Session, (Coordination Clause)

Enacted by Chapter 21, 2011 General Session

**76-9-1005 Illegal alien -- Notification of federal government -- Transportation to federal facility.**

A state or local law enforcement agency may securely transport an alien who is in the agency's custody and whom the agency has verified is unlawfully present in the United States to a federal detention facility in this state or, with the concurrence of the receiving federal agency, to a federal facility or other point of transfer to federal custody that is outside this state.

Enacted by Chapter 21, 2011 General Session

**76-9-1006 Enforcement of federal immigration laws.**

A state or local governmental agency of this state, or any representative of the agency, may not:

- (1) limit or restrict by ordinance, regulation, or policy the authority of any law enforcement agency or other governmental agency to assist the federal government in the enforcement of any federal law or regulation governing immigration; or
- (2) limit or restrict by ordinance, regulation, or policy the authority of any law enforcement agency to investigate or enforce any violation of the federal misdemeanor offenses of willful failure to register as an alien or willful failure to personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e) or 1306(a).

Enacted by Chapter 21, 2011 General Session

**76-9-1007 Determining an alien's immigration status -- Transfer or maintenance of information.**

- (1) Except as limited by federal law, any state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of any person by communicating with any federal, state, or local governmental entity for any lawful purpose, including:
  - (a) determining a person's eligibility for any public benefit, service, or license provided by any federal agency, by this state, or by any political subdivision of this state;
  - (b) confirming a person's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;
  - (c) if the person is an alien, determining if the person is in compliance with the federal registration laws of Title II, Part 7, Immigration and Nationality Act; or

- (d) a valid request for verification of the citizenship or immigration status of any person pursuant to 8 U.S.C. Sec. 1373.
- (2) This section does not implement, authorize, or establish the federal REAL ID Act of 2005, P.L. 109-13, Division B; 119 Stat. 302, except as provided by Section 53-3-104.5, regarding limitations on the state implementation of the federal REAL ID Act.

Enacted by Chapter 21, 2011 General Session

**76-9-1008 Proof of immigration status required to receive public benefits.**

- (1)
  - (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:
    - (i) as provided in Subsection 63G-12-402(3)(g) or (k); or
    - (ii) when compliance is exempted by federal law or when compliance could reasonably be expected to be grounds for the federal government to withhold federal Medicaid funding.
  - (b) The agency shall verify a person's lawful presence in the United States by requiring that the applicant under this section sign a certificate under penalty of perjury, stating that the applicant:
    - (i) is a United States citizen; or
    - (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.
  - (c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.
  - (d) The signature under this Subsection (1) may be executed in person or electronically.
  - (e) When an applicant who is a qualified alien has executed the certificate under this section, the applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program or an equivalent program designated by the United States Department of Homeland Security.
- (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in a certificate executed under this section is guilty of public assistance fraud under Section 76-8-1205.
- (3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United States Attorney for the applicable federal judicial district based upon the venue in which the certificate was executed.
- (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the requirements of the provisions of this section that provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of this state.
- (5) If an agency under Subsection (1) receives verification that a person making an application for any benefit, service, or license is not a qualified alien, the agency shall provide the information to the local law enforcement agency for enforcement of Section 76-8-1205 unless prohibited by federal mandate.

Amended by Chapter 278, 2013 General Session

**76-9-1009 Implementation to be consistent with federal law and civil rights.**

All state and local agencies shall implement this part in a manner that is consistent with federal laws that regulate immigration, protect the civil rights of all persons, and establish the privileges and immunities of United States citizens.

Enacted by Chapter 21, 2011 General Session